

The restriction requirement, as set forth on pages 2-3 of the Office Action, is respectfully traversed. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the subject matter of Group I, claims 1-26 and 50-52.

The Examiner states that "[b]ecause...the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper." See page 3 of the present Office Action. Applicants respectfully disagree.

According to the present Office Action, the two groups of claims are classified in the identical class and subclass. Accordingly, a search for these groups of claims will substantially, if not completely, overlap. Applicants refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of an entire application can be made without **serious burden**, the Office **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining Group I together with Group II would constitute a serious burden, or any burden at all. Thus, for at least this reason, Applicants respectfully submit that the restriction requirement is in error and request that the requirement be withdrawn.

**B. Election of Species Requirement**

The Examiner also requires an election of (1) a single compound chosen from ceramides and glycosceramides; (2) a single cationic polymer, and (3) a single amphoteric polymer. Applicants traverse each of these election of species

LAW OFFICES

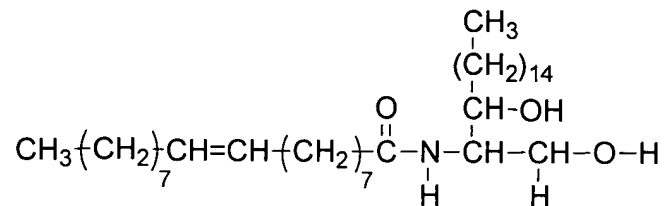
FINNEGAN, HENDERSON,  
FARABOW, GARRETT,  
& DUNNER, L.L.P.  
1300 I STREET, N. W.  
WASHINGTON, DC 20005  
202-408-4000

requirements on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. In fact, the Examiner has failed to show that any burden exists. See page 3 of the present Office Action.

However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, species of each type as follows:

**1. Ceramide or Glycosceramide Compound**

With respect to the requirement to elect a single compound chosen from ceramides and glycosceramides, Applicants elect, with traverse, the ceramide 2-oleamido-1,3-octadecanediol. This species corresponds to the following structure:



This species is disclosed at page 9 of the specification, in Examples 1-4, and reads on claims 1-3, 5, 6, 7-26, and 50-52.

**2. Cationic polymer**

With respect to the cationic polymer, Applicants elect, with traverse, IONENE G: hexadimethrine chloride, a polymer of formula (IX) disclosed at pages 22-23 of the specification and Examples 1-4. This species reads on claims 1-26 and 50-52. See e.g., claim 12.

**3. Amphot ric polymer**

With respect to the amphoteric polymer, Applicants elect, with traverse, MERQUAT 280, polyquaternium-22, disclosed at page 28 of the specification and Examples 1-4. This species reads on claims 1-26 and 50-52. See e.g., claim 15.

As discussed above, Applicants traverse each of the election of species requirements on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. Accordingly, Applicants respectfully request that the full scope of the claimed invention be examined in this application without an election requirement. If the Examiner chooses to maintain the election requirement, however, and should the elected species be found allowable, Applicants expect the Examiner to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the full scope of the patentability thereof, i.e., extending the search to the non-elected species, as is the duty of the Examiner according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (202) 408-4173.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

*Shalia V. Dune T, Reg No. 39064*

By: *for Anthony C. Fridico*  
Anthony C. Fridico  
Reg. No. 45,958

Dated: December 18, 2001

240724